THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No. 25078 of 2003

23-08-2005

Between:

Fisherman Youth Welfare Association, Visakhapatnam & Others.

.....PETITIONERS

AND

Visakhapatnam Urban Development Authority, rep. by its Vice Chairman, Siripuram, Visakhapatnam & Others.

.....RESPONDENTS

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

And

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No. 25078 OF 2003

ORDER : (Per Hon'ble Sri Bilal Nazki, ACJ)

Heard learned Counsel for the parties.

This writ petition has been filed by the Fisherman Societies complaining that by widening of a road, the existing habitat, place and livelihood of the petitioners is affected and the respondents have violated the CRZ Notifications. Following prayer is made in the writ petition;

> *"It is prayed that this Hon'ble Court may be pleased to issue a writ, or order or direction more particularly in the nature of Writ of mandamus declaring the action of the respondents in initiating development activity for widening the road from Vishakhapatnam to Bheemunipatnam in the name and style as SWARNANDHRA SAGARA THEERAM ROAD whose first phase is approved by R1 in board meeting dtd 1-10-2003 is violative of notifications by R4 and Coastal Zone Management plan as notified and approved by the Central Government Environmental Protection Act, Forest Conservation Act unconstitutional and consequently direct the respondents to restore the natural formations and further desist from taking up development activity under any other name which will violate the coastal zone management plan as well as coastal zone regulations notification from Vjishakhapatnam to Bheemunipatnam especially in lands in Survey Nos.121, 122, 146, 147 and 150 of Chinagadili Village, Chinagadili Mandal, Sy.No.2 of Chinna Waltair village, Vishakhapatnam District and pass order or other orders as deemed fit in the interest of justice."*

When this writ petition has come up earlier before this Court, the Court passed a detailed order and directed engagement of an authorized agency to look into the matter and give a report. Accordingly, the matter was referred to National Institute of Oceanography, who earlier filed an interim report and now filed the final report. The conclusions of the National Institute of Oceanography are as follows;

> *"1. The setback lines of 200 m and 500 m measured landward side of High Tide Line along the open coast, indicates that the existing road falls within the set back lines of 200 m line at some places.*
>
> 2. *The VUDA has the requirement of removing many acute bends through straightening and widening of the alignment at a number of locations.*

3. *The proposed project is not an industry or a new construction and is considered as an infracture development activity and the widening would help in the reduction of traffic accidents.*

4. *This project is not related to construction of new road but for the widening and straightening and will be initiated by Vjisakhapatnam Urban Authority, The Local Development & Statutory Government Authority for public interest after considering the EIA studies.*

5. *As per the 1994 Notification of MoEF., the government may permit any construction within the said 200 M NDZ subject to such conditions and restrictions as it may deem fit.*

6. *No sand dunes exists along the widening and straightening alignment of the present road."*

Since this National Institute of Oceanography did not find any violation of CRZ Notifications, therefore, there is no reason for this Court to interfere in the matter.

The learned Counsel for petitioners, however, submits that this report was not available with the Ministry of Environment and Forests when the permission was given, therefore, the matter should again be sent to the Ministry to take a fresh decision. Since the Ministry has granted the permission, therefore, there is no question of reopening the matter. Had the Ministry declined the permission, then this report would have become relevant for the purpose of fresh consideration. This report supports the decision taken already by the Ministry. Therefore, in our view, there is no need to refer it back to the Ministry.

The writ petition is accordingly dismissed. No order as to costs.

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(BILAL NAZKI, ACJ)

23rd August 2005.

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(G.CHANDRAIAH, J)

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